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PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference 25476	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/IL02/01040	International filing date (day/month/year) 26 December 2002 (26.12.2002)	Priority date (day/month/year) 27 December 2001 (27.12.2001)
International Patent Classification (IPC) or national classification and IPC IPC(7): G01T 1/00 and US Cl.: 250/373,343,304; 73/23.161.1		
Applicant [ORGENTICS, LTD.] INVERNESS MEDICAL SWITZERLAND GMBH		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 3 sheets, including this cover sheet.
☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

EPO - DG 1

3. This report contains indications relating to the following items:

23. 09. 2004

- ☒ Basis of the report
- ☐ Priority
- ☐ Non-establishment of report with regard to novelty, inventive step and industrial applicability
- ☐ Lack of unity of invention
- ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Certain documents cited
- ☐ Certain defects in the international application
- ☐ Certain observations on the international application

(36)

Date of submission of the demand 09 July 2003 (09.07.03)	Date of completion of this report 04 June 2004 (04.06.2004)
Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer John R. Lee Telephone No. 703-308-0956

Form PCT/IPEA/409 (cover sheet)(July 1998)

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/IL02/01040

I. Basis of the report

1. With regard to the elements of the international application:*

☒ the international application as originally filed.☒ the description:

pages 1-17 as originally filed

pages NONE, filed with the demandpages NONE, filed with the letter of _____.☒ the claims:

pages 18-24 as originally filed

pages NONE, as amended (together with any statement) under Article 19pages NONE, filed with the demandpages NONE, filed with the letter of _____.☒ the drawings:

pages 1-3 as originally filed

pages NONE, filed with the demandpages NONE, filed with the letter of _____.☐ the sequence listing part of the description:pages NONE, as originally filedpages NONE, filed with the demandpages NONE, filed with the letter of _____.

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).☐ the language of publication of the international application (under Rule 48.3(b)).☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

☐ contained in the international application in printed form.☐ filed together with the international application in computer readable form.☐ furnished subsequently to this Authority in written form.☐ furnished subsequently to this Authority in computer readable form.☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. ☐ The amendments have resulted in the cancellation of:☐ the description, pages NONE☐ the claims, Nos. NONE☐ the drawings, sheets/fig NONE5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/IL02/01040**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims <u>2-8,20-22,26-27,35</u>	YES
	Claims <u>1,9-19,23-25,28-34 and 36-39</u>	NO
Inventive Step (IS)	Claims <u>35</u>	YES
	Claims <u>1-34 and 36-39</u>	NO
Industrial Applicability (IA)	Claims <u>1-39</u>	YES
	Claims <u>NONE</u>	NO

2. CITATIONS AND EXPLANATIONS

Claims 1, 9-19, 23-25, 28-34, and 36-39 lack novelty under PCT Article 33(2) as being anticipated by Parker et al. Parker et al. teaches a portable fluorescence detection device comprising a light source and photodetector wherein a sample is passed into the device and light excites a fluorephore, the light being filtered by filter means (14) detected by detector (16). (Fig. 1) and where the light source may be ultraviolet (Col. 2).

Claims 2-5 and 22 lack an inventive step under PCT Article 33(3) as being obvious over Parker et al. Minimizing the cost or consumption of power is an obvious modification of such a device because a reduction cost or in power consumption results in lower operating costs and lower device heat generation.

Claims 6-8 and 20-21 lack an inventive step under PCT Article 33(3) as being obvious over Parker et al. A light emitting diode or an array of light sources would be suitable sources of light radiation in the device of Parker et al. to illuminate the sample. Since Parker et al. teaches any light source which suitably illuminates a sample may be used, it would be obvious to select an LED or array.

Claims 26-27 lack an inventive step under PCT Article 33(3) as being obvious over Parker et al. Controlling the exposure time of the detector is an obvious modification of Parker et al. because the exposure time of the detector may be varied using the slit (42).

Claim 35 meets the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the further incorporation of a lateral flow immunochromatography device.

Claims 1-39 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.